IN THE HON'BLE HIGH COURT OF CHATTISGARH, BILASPUR (C.G.)

Misc. Appeal No. (C) 223 / 2007 Division Bench

APPELLANT (CLAIMANT) : 1. **Charanjit Singh**, S/o. Late Tara Singh, Punjabi, Aged about 28 years, Occupation-Truck owner & driver;

2. Smt. Jaswinder Kaur, w/o. Charanjit Singh, Aged 25 years,

Both R/o. K.L.C. Block 20, Opposite Hut, Quarter No. 6/F, Zone-2, Khursipar, Ward No. 31, Bhilai, P.S. Chhaoni, Tahsil & District Durg (C.G.)

P.R. No. 459/07 Presented by Shri Manish Tarsariya Date 6/8/07

Versus

RESPONDENTS (NON-APPLICANTS) : 1. **Isub Ali**, s/o. Mohammad Ali, aged 41 years, R/o. Sayyad Tekra, Opposite the house of Naushad Bandwala, P.S. Borsad, Dist. Anand (Gujrat), Presently residing at-c/o. Jalaram Transport, T.P. Nagar, Hathkhoj, Bhilai, Tahsil & District Durg (C.G.)

(Driver of Truck No. G.J. 7-Y/1944)

2. Nebiyen Bibi, w/o. Miran Mian Malik, aged 45 years, R/o. Borsad, Tahsil Borsad, Dist. Anand (Gujrat)

(Owner of Truck No. G.J. 7-Y/1944)

3. The Oriental Insurance Company Limited, Branch-Borsad, Dist. Anand (Gujrat); (through its Branch Manager), Local Branch- G.E. road, Power House, Bhilai, Tahsil & District Durg (C.G.)

(Insurance Co. of Truck No. G.J. 7-Y/1944)

APPEAL U/S 173 OF THE MOTOR VEHICLES ACT, 1988;

APPEAL VALUED AT THE AMOUNT OF CLAIM Rs. 8,00,000/-;

AND A COURT FEE OF Rs. 20/- IS ENCLOSED HEREWITH.

(17)

HIGH COURT OF JUDICATURE CHHATTISGARH :
BILASPUR
DIVISION BENCH

CORAM : **HON'BLE SHRI H.L. DATTU, CJ &**
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL (C) NO. 223 OF 2007

APPELLANTS Charanjit Singh & another

Versus

RESPONDENTS Isub Ali & others

Present : Shri MPS Bhatia, counsel for the appellants
None for the respondents.

ORAL ORDER
(Passed on 20th February, 2007)

The following oral order of the Court was passed by

Vijay Kumar Shrivastava, J.

This is an appeal under Section 173 of the Motor Vehicles Act, 1988 (henceforth "the Act, 1988") filed by the appellants / claimants for enhancement of compensation, which was awarded by the 12th Additional Motor Accident Claims Tribunal (FTC), Durg (henceforth "the Tribunal") vide award dated 04.10.2006 in Claim case No.07 of 2005, whereby they have been allowed a compensation of Rs.1,54,500/-.

2) Briefly stated facts are that, on 29.01.2005 at about 3 pm son of the appellants / claimants Baljit Singh, aged about 7

(18)

years was coming from Charouda to Khursipara on a motor cycle, which was being driven by his grandfather Tarasingh. On their way, respondent No.1, who was driving Truck bearing No.GJ-7-Y/1994 in a rash and negligent manner, dashed the motor cycle resultantly, Baljit Singh received injuries and succumbed to those. Being legal representatives of the deceased, the appellants / claimants filed an application under Section 166 of the Act for grant of compensation against the driver, owner and insurer of the offending vehicle. Respondents No.1 & 2 remained *ex parte* whereas respondent No.3 contested the claim. Learned Tribunal after appreciation of the evidence, allowed compensation as below :

Dependency	Rs.1,50,000/-
Funeral expenses	Rs. 2,000/-
Love and affection	Rs. 2,500/-
Total	Rs.1,54,500/-

3) Learned counsel for the appellants /claimants contended that Tribunal failed to appreciate just and proper compensation to them.

4) We have gone through the award. Tribunal relying on judgment rendered by Hon'ble the Apex Court in the matter of **Manjudevi and others Vs Musafir Paswan and others** reported in **2005 ACJ 99** ,assessed the compensation and awarded the

(19)

same to the appellants / claimants. It is settled that for assessment of compensation, multiplier method is an appropriate method. Deceased was a child, aged about 7 years. Naturally, he is not an earning member, therefore, in accordance with Section 163 (a), Schedule 2 of the Act, notional income was required to be taken into consideration and learned Tribunal for dependency accepted notional income and after reducing 1/3rd towards his own expenses and applying multiplier of 15, correctly assessed the loss of income to be Rs.1,50,000/-. The Tribunal also properly allowed Rs.2,000/- for funeral and Rs.2,500/- towards love and affection etc.

5) Finding of fact recorded by the Tribunal does not appear to be illegal or infirm, which may require interference by this Court. Therefore, the appeal being devoid of merit is dismissed *in limine*.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge

padma